

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
NO. 3:82-cv-566-GCM**

**LARRY MARSHAK,**  
**Plaintiff,**

**v.**

**MICHAEL BRIDGE,**  
**Defendant,**

**v.**

**WILLIE B. PINKNEY,**  
**Third-Party Defendant**

**ORDER**

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**ORIGINAL DRIFTERS, INC.,** *Successor*  
*in interest to Willie B. Pinkney,*  
**Movant**

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**THIS MATTER** is before the court on the Motion for Temporary Restraining Order without notice (Doc. No. 211), filed by Movant Original Drifters, Inc., as the alleged successor in interest to Third-Party Defendant Willie B. Pinkney.

In 1996, this Court entered a consent judgment finding, inter alia, that Plaintiff “is the owner of U.S. Service mark Reg. No. 1,081,338 for the incontestable service mark THE DRIFTERS to identify entertainment services, namely a singing group, and has the unqualified and exclusive right to use the throughout the United States the name or mark THE DRIFTERS to identify a musical performing group, and enjoy the exclusive good will deriving therefrom.” Plaintiff has recently sought to enforce this Consent Judgment against Movant in arbitration proceedings in New York.

Movant, however, requests the Court to immediately stay the arbitration proceedings on the grounds that courts in other districts have subsequently determined that Plaintiff's ownership of the trademark to "The Drifters" was fraudulently obtained. Movant argues that, accordingly, Plaintiff's initial suit lacked standing and that this Court should enjoin the New York arbitration conducted pursuant to the 1996 Consent Judgment and ultimately vacate the 1996 Consent Judgment.

The Court finds, however, that Movant is not properly a party in this matter at this time as it has not been joined as a Third-Party Defendant, nor has it filed a motion to intervene pursuant to Fed. R. Civ. P. 24 or a motion to substitute itself in the place of Third-Party Defendant pursuant to Fed. R. Civ. P. 25. Movant admits as much in its memorandum: "Movant, Original Drifters, Inc., is not a party to the within Consent Judgment . . . ." The Court does not have the authority to review motions from parties not properly before the Court.

**IT IS THEREFORE ORDERED** that Movant's Motion for Temporary Restraining Order without notice (Doc. No. 211) is **DENIED**.

**SO ORDERED.**

Signed: May 16, 2018

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

